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CHARLES ELMORE CROPLEY
CLERK

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1936

No. [redacted] 42

JAMES D. SMYTH, EXECUTOR OF THE ESTATE OF JAMES J. RANSOM, DECEASED,

Petitioner,

vs.

THE UNITED STATES.

MEMORANDUM FOR THE PETITIONER.

The petitioner has heretofore filed with its petition in this cause, a brief in which it has set forth the reasons why it believes that a writ of certiorari should be granted by this Honorable Court. The United States has now filed a waiver of its right to file a reply to the petition, and in the case of *The Dixie Terminal Company, Petitioner,* against *The United States,* No. 961 (in which the undersigned is also counsel for the petitioner), has filed a memorandum joining in petitioner's request that a writ of certiorari be issued to the Court of Claims of the United States.

The memorandum of the Government, in the case in which The Dixie Terminal Company is petitioner, gives as a reason for the granting of the writ, that the decision of the Court of Claims in that case is in conflict with the deci-

sion of the Circuit Court of Appeals for the Fourth Circuit in the case of *Machen* against *The United States*, 87 F. (2d) 594. The petitioner respectfully points out to this Honorable Court that while the Circuit Court of Appeals for the Fourth Circuit disapproved of the reasoning of the Court of Claims in the *Dixie Terminal* case, the actual conflict in decisions is between that of the Circuit Court of Appeals for the Fourth Circuit in the *Machen* case and that of the Court of Claims in the instant case. These two cases involve the question of the right of a bondholder to recover interest on an interest coupon attached to a so-called First Liberty Loan Bond; the *Dixie Terminal* case involves the right of a bondholder to recover on an interest coupon attached to a so-called Fourth Liberty Loan Bond. The wording of the statutes under which the bonds were issued, of the Treasury Department's circulars pursuant to which subscriptions to the bonds were made, and of the bonds themselves, are different in the case of First Liberty Loan Bonds and Fourth Liberty Loan Bonds.

The petitioner respectfully submits to this Honorable Court that because of the difference in the manner of expressing the undertakings of the Government, as set forth in the bonds of the two series involved in this case and in the *Dixie Terminal* case, writs of certiorari should be issued to the Court of Claims of the United States to review the judgment of that Court in the instant case as well as in Case No. 961, *The Dixie Terminal Company, Petitioner*, against *The United States*.

Respectfully submitted,

ROBERT A. TAFT,
Attorney for Petitioner.

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